

Remarks

Claims 1 and 3 to 17 inclusive are being prosecuted.

Claim 1 as currently amended more clearly defines the fact that the device of the present invention is constructed so that the user floats in a more upright position i.e. so that the orientation angle β of floating user is between 45 and 90 degrees as described in the specification. This is significantly different from the floatation orientation described as being achieved and/or desired to be achieved by the structures of the prior art particularly the floatation orientation specified as being obtained by the structure of the device invented by Sabo.

Reconsideration of the rejections of claims under 35 USC §103(a) in view of the combination of Baker and Sabo (or Bateman and Sabo) is respectfully requested in the light of the following.

It is submitted that the arguments presented in the response to the Final action adequately dealt with the W shape as claimed and with the location of the lobes of Sabo relative to the user and therefore have not been repeated here. Simply stated the lateral projections or lobes as they are described by Sabo appear to extend partway under the arms, however the text relating thereto is at best ambiguous thus turning for clarification to Figure 2, the only figure in Sabo showing the invention in place on the wearer, it is clearly shown that these lobes do extend partially around the side of the wearer, but clearly are not under the arms of the user when in floating position as shown and **definitely do not have any portions thereof that are or could be at the back of the user**. This position of a portion of the lateral projection of the present invention behind the back of the user is essential to the present invention and is clearly described in the disclosure and is specifically defined in claim 1.

This significant difference in structure between the prior art (Sabo) and the structure defined in claim 1 is defined by the limitation in Claim 1 that requires that

“each of said lateral portions projecting from its front portion a distance sufficient to extend under an adjacent arm of a user ***and provide a portion of said lateral portion positioned behind said user***” (bolding emphasis added)

Clearly it is the intention of Sabo and an important feature of the Sabo device that the user be made to float on his back and Sabo has structured his device accordingly. Sabo's invention has the as specifically defined in the Sabo patent has the effect of making the user float on his back. Sabo specifically states in the paragraph beginning at column 8 line 36 that

"each has its center of buoyancy at and somewhat above the front of the wearer's torso
so that the wearer is compelled to float upon his back -----"(emphasis added)

Contrast that the present invention which is structured to ensure that the user float a floatation angle β of between 45 and 90 degrees as described in the specification and claims of the instant application. See the last few lines of claim 1 as currently amended which read,

"the construction of said lateral portion and said rear buoyancy area cause the user to float in an upright position at an angle β of between 45 and 90 degrees". -----
"(emphasis added).

Definitely the structure disclosed and claimed by Applicant and required to obtain the defined orientation angle β is not shown in Sabo or obvious from the teachings of Sabo..

The range 45 to 90 degrees defines the limits of flotation position which result in the least instances of mouth immersion. As previously discussed (Response to the Final Action) vertical position (90 degrees) places the mouth as high out of the water as possible. Inclining the head backwards, towards 45 degrees places progressively more of the protrusions on the inflatable bladder under water, thus providing additional buoyancy which in turn results in maintaining the freeboard or distance above the water of the mouth.

The lateral projections, which as defined in claim 1 pass under the arms and extend to have a portion thereof at the back of the wearer, provide the buoyancy necessary to produce the higher than normal freeboard. The lateral projections also tend to keep the buoyancy relatively constant as the torso inclines backwards, thereby maintaining freeboard. If the projections were shorter and did not extend to a position behind the user as defined in claim 1 the buoyancy would be reduced as the backwards leaning angle increases.

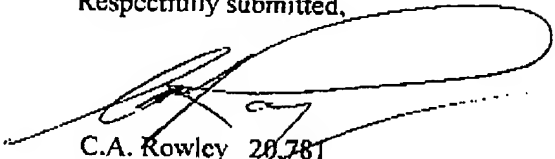
Alone, these projections would produce an unstable floatation position with the wearer tending to pitch forward into a face down position or backwards into a face up position. The front lobes, which are located in a normal position, close to the body on either side of the chest, resist the forwards tendency. The back portion resists the backwards rotation.

Reconsideration of the dismissal of this limitation (orientation angle β) as simply defining function is again respectfully requested. As pointed out in the previous response the device of the present invention must have specific structural elements, with positions, sizes, etc. for this orientation to be achieved. The specific structure required to obtain this orientation angle β of 45 to 90 is now even more clearly specified in Claim 1 as currently amended and provides another clearly defined structural difference between this invention and Sabo

6

It is believed that this application is now in condition for Allowance and such action is respectfully requested.

Respectfully submitted,



C.A. Rowley 20,781
Agent for Applicant
Date: 12/22/2005
Telephone: (613) 398 1409

Certificate of Transmission

I hereby certify that this correspondence (**Total 7 pages**) is being facsimile transmitted to the United States Patent and Trademark Office (Fax no. (571) 273 8300) on December 22, 2005

Typed name of the person signing this certificate
Signature

(Date)

C.A. Rowley

